

### **3 AAC 46.320. Qualifications and standards. (was 3 AAC 50.960)**

(a) To help ensure that it meets the requirements of AS 42.05.762, the rules of an electric reliability organization must

(1) contain a requirement that board members have experience in the areas of electric power generation or transmission or storage, law, mediation, finance, or another business-related field;

(2) contain standards or procedures by which a director, director's designee, or an employee of the electric reliability organization can be deemed to possess the technical qualifications sufficient to enable the organization to meet the requirements of AS 42.05.762(1) and (2).

(3) establish a procedure to ensure that the standards, plans, and rules adopted by the electric reliability organization do not grant any person an unreasonable preference or advantage or subject any person to an unreasonable prejudice or disadvantage.

(4) establish a procedure to ensure that enforcement investigations, including penalty recommendations, undertaken by the electric reliability organization cannot be carried out by persons employed by, either directly or by contractual arrangement, or affiliated with the person under investigation.

(5) provide for public access to the approved and proposed plans, standards, tariff and rules of the electric reliability organization. At a minimum, the rules of an electric reliability organization must provide for;

(A) a website on which all the approved and proposed plans, standards, tariff and rules of the electric reliability organization are posted for public review and which is capable of receiving comments from the public before filing with the commission for approval.

(i) Documents posted on the electric reliability organization's website must be in a format that prevents unauthorized revision to the documents, is text-searchable, and can be read by any person with internet access using publicly available free software.

(ii) The electric reliability organization's website must provide the public with access to each approved or proposed plan, standard, tariff, or rule, and any public document related to development or interpretation of the approved or proposed plan, standard, tariff, or other rule, without special expertise or knowledge of the posting protocols of the electric reliability organization.

(iii) Comments received from the public related to a proposed plan, standard, tariff, or rule of the electric reliability organization must be posted on the website as a document related to development of the proposed plan, standard, tariff, or rule, unless a particular comment includes information classified as confidential under rules of the electric reliability organization, includes information confidential under 3 AAC 48.040(b), or includes language that could subject the electric reliability organization to civil liability if republished.

(B) a presumption that all documents received by the electric reliability organization are public unless the document is classified in whole or in part as confidential

- (i) for good cause as defined in 3 AAC 48.045(b) under rules established by the electric reliability organization; or
- (ii) under 3 AAC 48.040(b).

(C) a process under which the electric reliability organization will make available to the public those portions of a document that are not confidential if a portion of the document is classified as confidential under subpart (B) above.

~~(D) an appeal to the commission of any decision by the electric reliability organization to classify, or not classify a document or portion of a document as confidential under subpart (B) above.~~

(D) a process under which any interested person may petition the electric reliability organization to participate in development of a proposed plan, standard, tariff, or other rule of the electric reliability organization. The process may require consideration of the following factors:

- (1) the interest of the petitioner;
- (2) the effect on the petitioner's interest in the matter to be developed;
- (3) the availability of other means by which the petitioner's interest may be protected;
- (4) the extent to which the petitioner's interest will be represented by other participating persons;
- (5) the extent to which the petitioner's participation may reasonably be expected to assist in the development of a sound record; and
- (6) the extent to which participation of the petitioner will broaden or delay the matter to be developed.

(E) a process by which a successful petitioner may gain including a process under which the interested person is provided access to relevant confidential documents and information in possession of or shared with the electric reliability organization. The electric reliability organization may develop rules that define the level of participation in the development of the proposed plan, standard, tariff, or other rule that entitles a successful petitioner access to confidential information.

~~(i) classified in whole or in part as confidential, under the terms of a non-disclosure agreement enforceable by the electric reliability organization and the person with an interest in maintaining confidentiality of the document.~~

~~(ii) acquired from users, owners, and operators under electric reliability organization rules intended provide a participant with access to relevant information similar in scope to that allowed a party under 3 AAC 48.141.~~

~~(iii) for the purposes of this subsection, the electric reliability organization shall develop rules defining the level of participation in the development of a proposed plan, standard, tariff, or other rule that entitles a person to acquire relevant information from users, owners, and operators.~~

(F) a process under which notice of a proposed plan, standard, tariff, or rule of the electric reliability organization is provided to the potentially affected public, and comments on the proposed plan, standard, tariff, or other rule of the electric reliability organization will be accepted.

(G) a process for developing a report to be filed with the commission as an attachment to any submittal requesting approval of a proposed plan, standard, tariff, or other rule of the electric reliability organization, which includes

(i) the input of all persons participating in development of a proposed plan, standard, tariff, or other rule of the electric reliability organization, captured in narrative form;

(ii) all comments submitted in response to public notice of a proposed plan, standard, tariff, or other rule of the electric reliability organization; and

(iii) an explanation of how the interests represented by persons providing input or comments have been given due consideration by the electric reliability organization in developing the proposed plan, standard, tariff, or other rule that is submitted to the commission for approval.

(H) a process for providing public notice and an opportunity for public comment on each proposed enforcement action under the program developed in accordance with 3 AAC 46.400.

(6) not ~~submit to the commission allow the establishment and placing into effect~~ any new or revised plan, standard, tariff provision, or other rule except after ~~45 days' notice to the commission and after 30 days' notice to the public.~~ For good cause shown, the commission may allow a proposed new or revised plan, standard, tariff provision, or other rule to go into effect on less than the notice required by this subsection under conditions the commission prescribes.

(7) require the electric reliability organization to keep an original set of books, accounts, papers, and records within this state. The electric reliability organization shall timely provide the commission with a certified copy of any books, accounts, papers, or records upon request by the commission, and such records shall be public under AS 42.05.671, unless exempted from public disclosure under the terms of that statute. The electric reliability organization shall allow the commission to inspect the electric reliability organization's original books, accounts, papers, or records where they are kept at any reasonable time chosen by the commission.

~~(8) — allow for commission investigation of electric reliability organization management practices, including but not limited to staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing and payment arrangements with users, operators, or owners of the interconnected bulk electric system, for the purpose of determining inefficient or unreasonable practices that adversely affect the cost of services provided by the electric reliability organization. The rules must require the electric reliability organization to modify its management practices in conformance with any finding of inefficient or unreasonable practices by the electric reliability organization.~~

~~(9) contain provisions for the resolution of disputes related to the performance of electric reliability organization duties through voluntary mediation, and may include provisions allowing such disputes to be resolved under the alternate dispute resolution procedures set out in 3 AAC 48.121.~~

(b) To be considered for an affirmative vote of the board of directors, a reliability standard or integrated resources plan must first be approved by the voting members of a subcommittee or technical committee whose members satisfy the technical qualification requirements of (a)(2) of this section. The voting threshold must ensure that the reliability standard or integrated resources plan is technically sound.

Authority:	AS 42.05.141	AS 42.05.760	AS 42.05.770
	AS 42.05.151	AS 42.05.762	